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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 10 April 2000 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit, herewith enclosed**, the comments of the Government of the Federal Republic of Yugoslavia on the report submitted by Mr. Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (E/CN.4/2000/39). I would like to ask you kindly to have it circulated as an official document of the Commission on Human Rights under agenda item 9.

(Signed) Branko Brankovic
Ambassador
Chargé d'affaires a.i.

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Annex

COMMENTS OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA ON THE REPORT SUBMITTED BY MR. JIRI DIENSTBIER, SPECIAL RAPPORTEUR OF THE COMMISSION ON HUMAN RIGHTS ON THE SITUATION OF HUMAN RIGHTS IN BOSNIA AND HERZEGOVINA, THE REPUBLIC OF CROATIA AND THE FEDERAL REPUBLIC OF YUGOSLAVIA (Document E/CN.4/2000/39)

PART III. FEDERAL REPUBLIC OF YUGOSLAVIA

INTRODUCTION

The Government of the Federal Republic of Yugoslavia considers that the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (E/CN.4/2000/39), more specifically its part dealing with the FR of Yugoslavia, should be read exclusively as a part of the other reports submitted by him in the period between the current fifty-sixth and the past, fifty-fifth session of the Human Rights Commission, in particular as a part of the report and addendum submitted to the UN General Assembly at its fifty-fourth session in 1999 (A/54/396 and Add.1). The present report, as submitted to the Commission, is extremely one-sided in respect of the topics selected and overlooks, in an inadmissible way for the FRY Government, serious human rights violations in the southern Serbian province of Kosovo and Metohija committed in between the two Commission sessions. The responsibility for serious and mass violation of the human rights of mostly Serbs and Montenegrins but also the non-Albanian population of Kosovo and Metohija, including even "disloyal" Albanians, does not lie with the Governments of the FR of Yugoslavia and the Republic of Serbia. The perpetrators are the terrorists of the so-called KLA who, with the agreement and in cooperation with KFOR and UNMIK, have been operating again, without hindrance, throughout the Province since the Yugoslav Army (VJ) and police (MUP) pulled out. Not even an updated report by the Special Rapporteur, in which he gave impressions of his recent visit to the FR of Yugoslavia (on 11-20 March 2000), has not amply illustrated the situation prevailing in the Province after KFOR and UNMIK were deployed. The Government of the FR of Yugoslavia, therefore, believes that the members of the Commission have not had an unbiased insight into all problems.

The report under review (E/CN.4/2000/39) leaves the impression that the most important problem in the FRY is the situation pertaining to the media in the Republic of Serbia (the province of Kosovo and Metohija not included), as well as ethnic Albanian detainees in custody in the Republic of Serbia. Such uneven-handiness in the presentation of problems strikes even more odd in the light of the fact that the report made no mention of the closure of Serbian-speaking media in the Province since the deployment of KFOR and UNMIK, of the stolen property of these media and the sacked employees and journalists, i.e. of a total news black-out for the Serbian people there.

The FRY Government does not deny that all civil and political rights are the legitimate concern of the Special Rapporteur. However, it most strongly objects to the systematic efforts of this and other representatives of the United Nations to highlight only the civil and political rights of the Albanian ethnic community in Kosovo and Metohija or the civil and political rights of opposition political parties in Serbia and the FRY. Civil rights are not applicable only to the Albanian ethnic population or to the opposition in the

Republic of Serbia. These rights must be highlighted even insofar as the remaining Serbs of Kosovo and Metohija are concerned. Their very lives are in danger on a daily basis and there are no other human rights and fundamental freedoms for these people in existence. Civil and political rights will have to be closely scrutinized by the Special Rapporteur also as regards the Serbs, Montenegrins and other non-Albanians displaced since 12 June 1999. They number 350,000. These rights will have to be scrutinized also as regards (at the time of closing these comments, 20 March 2000), 933 arbitrarily killed and 860 abducted or missing persons in the Province since 10 June 1999. Most of these people are also Serbs and Montenegrins. These are the most pressing and tragic instances of a serious and mass violation of human rights in the FR of Yugoslavia. Special Rapporteur Dienstbier should have dealt with the cases of these people. The same should have also been done by the Special Rapporteur of the Commission on arbitrary killings, by the Commission's Working Group on enforced and involuntary disappearances and by other institutions of the Human Rights Commission. To our regret and surprise, this has not been the case. Instead, problems have been whitewashed and taken out of the ambit of the Commission on Human Rights and its members by an attempt at duplication, i.e. setting up new institutions alongside the existing competent institutions of the Commission concerned with the same problems. This was the case with the idea of establishing a Special Rapporteur on missing persons in the FR of Yugoslavia. The idea is unacceptable to the FRY Government, primarily due to the existence of the Commission institutions dealing with this issue, with which the Government co-operates and to which it has already provided information and addressed calls for commitment.

Regarding the aforementioned problem of selectivity with respect to subject-matters for the Special Rapporteur's report, the FRY Government recalls that the United Nations has neither allowed nor has it the right to accept selectivity in monitoring the observance of human rights, in particular selectivity based on ethnicity, religion or culture. Regrettably, such selectivity is still present and obvious in the case of the FRY and the Republic of Serbia, not only because of the inertia on the part of some members of the international community as far as the alleged violation of the rights of the Albanian ethnic community in Kosovo and Metohija is concerned. In this period, since June 1999, it has served the purpose of covering up the massive crimes against the Serbs of Kosovo and Metohija and serious abuse of the human rights and the tragic plight of internally displaced persons.

The Government therefore calls on the members of the Commission on Human Rights, as those most responsible for monitoring the observance and condemning the violation of human rights in the FRY and the other two countries covered by the Special Rapporteur's mandate, to make judgements on all of the above facts.

To this end, the Government wishes to outline briefly some facts for the perusal of the Commission members indicating that the genocide of Serbs and Montenegrins has been going on since 12 June 1999 in the presence of almost 50,000 armed KFOR members and nearly 2,200 UNMIK police.

- **Ethnic cleansing:** Since KFOR and UNMIK were deployed in the Province, more than 350,000 people, mainly Serbs and Montenegrins but also Roma, Muslims, Turks, Goranci and other non-Albanians, have been driven out. The most recent intimidation of Serbs and unauthorized searches of private homes in Kosovska Mitrovica allegedly for arms (without the knowledge of the Yugoslav authorities and in violation of the International Covenant on Civil and Political Rights to which the FRY is a party duly fulfilling all its obligations to date) are but another example of the policy of pressure on the few Serbs

remaining in the Province for the purpose of an ethnic cleansing of all its Serbs.

- **Terrorism:** Between 12 June 1999 and 27 February 2000, a total of 4,354 terrorist acts were carried out, of which 4,121 against Serbs and Montenegrins. As many as 910 people were killed, including 811 Serbs and Montenegrins. 802 were wounded, out of whom 751 were Serbs and Montenegrins. Fifty thousand homes, primarily Serb, Montenegrin and Roma, were totally destroyed or badly damaged.

- **Terrorist attacks outside the Province:** Albanian terrorists and separatists are spreading (at the time of closure of the comments) their activities beyond the borders of Kosovo and Metohija. The victims were civilians and police officers (police patrolling the Bujanovac-Gnjilane road on 26 February 2000: one police officer was dead and four other wounded). In the same incident, one terrorist got killed. He belonged to the newly-established so-called Kosovo Protection Corps (recycled from the legalized so-called KLA), with the help of UNMIK and B. Kouchner.

- **Detention camps for Serbs:** Several hundred abducted Serb civilians are being detained in these camps run by the so-called KLA. They were addressed also in the Special Rapporteur's report for the fifty-fourth session of the General Assembly. They are located at Maticane near Priština, Dušanovo near Prizren and Drenica. They are all torture camps.

Another 350 abducted Kosovo and Metohija Serbs are detained in the Republic of Albania.

Even though the existence of such camps is common knowledge, the International Force in Kosovo and Metohija has not taken steps within its power to ensure the release of those abducted.

Once again, the Government wishes to draw attention to, and to stress the responsibility of the Commission members in this respect.

- **Destruction of cultural and historical monuments:** In their crusade against all traces of Serb culture dating back to the Middle Ages, the terrorist/separatist gangs from Kosovo and Metohija and Albania have desecrated 84 monasteries and churches, some of which are of inestimable cultural and national value.

- **Discrimination in health, education and the media:** The University of Priština, schools, theatres and Serbian-speaking media have been promptly closed down. Doctors and other medical staff have been thrown out of health institutions. All the property of these institutions has been stolen. Serbian residents have been expelled from their villages, even from larger cities such as Priština. Brutal methods were employed in these actions. Those who tried to resist were killed or are missing.

- **Responsibility of KFOR and UNMIK:** KFOR's and UNMIK's responsibility under Security Council resolution 1244 (1999) to maintain the multi-ethnic, multi-religious and multi-cultural character of the province has not been carried out but the attitude of KFOR and UNMIK is indicative of their complicity in the application and achievement of measures and purposes with opposite effect.

Daily armed attacks, including use of heavy weapons, confirm that KFOR and UNMIK have not met their obligation to disarm the so-called KLA, nor that they intend to do so. Serbs are killed in these attacks every day and their property and businesses destroyed.

The current Albanian leaders in Kosovo and Metohija, who are partners to KFOR and UNMIK, like H. Thaci, A. Ceku and others, say that the establishment of a Kosovo Albanian army is what they are after. A precursor to that army is the "KPC" established by B. Kouchner, a formation which is a mere renaming of the terrorist organization so-called KLA.

The Government reiterates its position presented to the President of the Security Council on 22 September 1999 that the alleged transformation of the terrorist so-called KLA into the so-called Kosovo Protection Corps is no more than a sham and pure manipulation, in order to avoid the obligation of the international forces to demilitarize and disarm this illegal terrorist formation, whose members have committed many atrocities against civilians and representatives of the authorities of the Republic of Serbia in Kosovo and Metohija, not only in the years preceding 1999 but also after the deployment of KFOR and UNMIK on 12 June 1999.

- **Thriving crime in the Province:** There is a thriving crime and general chaos in the Province, a fact also commonly known and recognized, including at the United Nations. Responsibility for it is borne by KFOR and UNMIK, who do not secure the international borders of the FRY with the Republic of Albania and FYR Macedonia. That is in gross violation of Security Council resolution 1244 (1999). As a consequence, Albanian terrorists and separatists as well as looters and other criminals cross over without any problem. Kosovo and Metohija has been turned into a stronghold of organized international crime, terrorism, narco-mafia, trafficking in arms and persons, juvenile crime and prostitution rackets in Europe. A serious threat in this respect is also being posed to other parts of the territory of the Republic of Serbia and the FRY.

- **Return of VJ and MUP:** Implementation of the provision of resolution 1244 and of the Military Technical Agreement, namely operative paragraph 4, paras 6 and 10 of Annex 2 of the Resolution and paragraph 4 of the MTA, concerning the return of a number of VJ and MUP personnel, has been delayed without justification. This fact is a factor of maintaining and spreading serious human rights violations which have occurred in the Province from June 1999 to the present day.

The Government will make some further specific comments on parts of the Special Rapporteur's report (E/CN.4/2000/39) down below:

C. Freedom of the media and access to information

The Government considers that this chapter of the Special Rapporteur's report contains some serious shortcomings. The assertion that "The Serbian Law on Public Information remains in force and proceedings continue against journalists, editors and others in independent media and NGOs" (paragraph 76) is aimed at pointing to an alleged discriminatory application of the Law as well as at proving that the opposition groupings and media do not accept it and deny it legitimacy. Nowhere in the report is the text of the Law analyzed. The Government emphasizes that the Law is equally applied to the so-called independent media and those which according to the standards of the Special Rapporteur could not be called independent. The Law on Public Information was used both by the opposition against the so-called Government-controlled media and by ruling coalition parties against the so-called opposition media, as well as by the opposition itself versus the so-called opposition media and by ruling coalition parties versus Government-controlled media.

Paragraph 75 - case of Nebojša Ristic

Criminal prosecution. Nebojša Ristic was sentenced to one year in prison by the Municipal Court in Sokobanja. He was convicted on criminal charges of spreading false news indictable under Article 218

of the Criminal Code of the Republic of Serbia[1]. The court's verdict went into effect.

Ristic was the editor of "Television Soko" in Sokobanja (although there is no written record of it). While the state of war was in force (during the aggression) he, as the editor, rebroadcast foreign programmes including those from the aggressor countries. On 27 March 1999, the Federal Ministry of Telecommunications ordered TV Soko to stop airing its programmes, as it constituted a violation of Article 9 of the Law on Telecommunication Links (links may not be established and used in violation of the country's security).

Having previously fixed posters on his office window saying:"Resistance is the answer! There is no other way. It will be too late if someone close to you dies of starvation, if they start shooting in the streets, if the last water sources are contaminated...Then it will be too late. This is not a system. This is a disease. Bite the system! Wake up. Live and resist", he added another poster of prison bars reading:"Free press - made in Serbia". He then put the seal on his office and left.

Conclusion: Unhappy about the decision made by the Federal Ministry of Telecommunications on getting TV Soko off the air, Ristic protested in public by bill posters full of untruths and he sealed his office. The posters were deliberately displayed in a public place, so that they could be read by as many citizens as possible causing concern among them and encouraging them to prevent the closure of local TV Soko.

The Special Rapporteur's report does not specify the time of the commission of the criminal offence; it was committed during the NATO aggression against Yugoslavia (the date was 27 March 1999, i.e. for the duration of the Decision declaring a state of war).

Paragraph 76 - case of ABC Grafika

The bulletin of the Alliance for Change was reproduced and printed by ABC Grafika. Under the law the printer is not allowed to reproduce and print a newspaper before getting proof that the newspaper has been entered into the register of public media. Any action contrary to it is considered an offence. ABC Grafika was not in possession of such proof because the bulletin of the Alliance for Change had not been registered with the Ministry of Information.

Conclusion: The bulletin of the Alliance for Change was not "a bulletin appearing from time to time and containing proclamations". It was a newspaper which came out on a regular basis, every day and was accessible to the public, but no one of the legally authorized persons ever applied for its registration as a public media. The registration is an obligation under both the Constitution of the Republic of Serbia and the Law on Public Information. Due to the violation of the provision banning the publication of unregistered public media, ABC Grafika was fined 36 times. Each time it was insisted on strict application of the law, and each time the fine was between 60,000 and 80,000 new dinars. The amount of the fines imposed in 36 separate proceedings instituted against ABC Grafika totalled 2,456,000 dinars. (The person responsible for ABC Grafika was fined a

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[1] Article 218 of the Criminal Code of the Republic of Serbia reads:"Whoever breaks or spreads false news or rumours with the intent to cause concern among the population or to endanger public order and peace or does any of these with the intent to undermine the implementation of decisions or measures taken by the Government authorities or institutions shall be punished with up to three years in prison."

total of 554,800 dinars in these 36 charges brought against it, ranging from 12,000 to 20,000 dinars per case).

ABC Grafika was never "object of attack" for printing the independent daily Glas javnosti and weeklies Vreme and NIN, as stated in Mr. Dienstbier's report, simply because it was never punished for publishing these newspapers.

The owner of ABC Grafika, Mr. R. Rodic, was neither summoned nor was he ever questioned on the premises of the Ministry of Internal Affairs of the Republic of Serbia. At the request of the Municipal Prosecutor's Office in Belgrade for gathering evidence relevant for making a decision on the charges filed against Mr. Rodic and the company's manager/owner, Mr. Rodic had informative talks in his office, exclusively in connection with the request of the prosecutor's office.

Also untrue is the allegation contained in the report that unknown persons set Mr. Rodic's car on fire outside his publishing house. The truth is that on 27 October 1999, a fire broke out in his car and upon inspection of the scene the authorities confirmed the fire was caused by the car's electrical wiring failur

Paragraph 76 - case of the Danas newspaper

Issue No. 748 of Danas of 19 October 1999 published on page 12 an article "Ahead of the dialogue of the DPS party with the Socialists and Radicals: Is there a de-icing of relations at hand?" reported:"...to make matters even more absurd, the same Šešelj threatened a few days back that Montenegrins would be driven out of Serbia and that they would wear yellow ribbons if Montenegro went independent. Vojislav Šešelj pressed charges against the printing company Dan graf, against the owner/publisher of Danas, against the manager of Dan graf as well as against the editor-in-chief of Danas.

The conduct of proceedings: Representative of Dan graf did not deny that Danas reported the statement. However, he claimed that the report was the contribution of the Danas editor in Podgorica. He thought that there was no offence because the report was not insulting of anyone and accurately quoted another report from the Podgorica newspaper Vijesti, which reported the statement made by Montenegrin Deputy Prime Minister Novak Kilibarda at a press conference. Under Article 69 of the Law on Public Information[2], the magistrate fined Dan graf and the owner-manager of Danas 200,000 new dinars (maximum fine is 300,000 new dinars), while manager of Dan graf was fined 80,000 new dinars (maximum fine is 150,000 new dinars). After the magistrate found out that the third co-defendant was not the editor of Danas, he was acquitted.

Conclusion: Danas has reported the statement that was not proved to have ever been made. The individual right that has been violated in this case is the reputation. The defence has not even tried to prove the truthfulness of the report. Its truthfulness had not been verified before going to press. The defence offered that the report was taken from the newspaper Vijesti leads to absolving of responsibility of the public media for the selection of messages put

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[2] Article 69 of the Law on Public Information reads:"For abuse of freedom of public information by disclosing an untruth in the media violating the right of the person as referred to in Article 1.4 and 1.11 of the present Law, an offender shall be punished:

- Owner/manager by a fine of 100,000 to 300,000 new dinars and editor and responsible person of the owner/manager by fine of 50,000 to 150,000 new dinars".

across and for the way in which they are interpreted. By using the cover of simply reporting another person's statement, the rights of the person could be violated without limitation.

Lastly, it was not true either that "It did not affect the court's decision that Mr. Kilibarda confirmed in writing that his statement was reported accurately". There is no trace in first- and second-instance briefs as well as in the appeal lodged by Dan graf that the court for petty crimes received any confirmation in writing from Mr. Kilibarda. Such confirmation was not invoked by the defence, either.

Paragraph 76 - case of Kikindske novine

Kikindske novine were fined three times in 1999. Each time the charges were pressed by Mr. Rajko Popovic, former mayor of Kikinda. In its issue No.50 of 27 August 1999, on page 9, in an article "Paranoid fixation", Kikindske novine reported:"...One of the darkest and most parannoiac metaphors and paradigms is a man named Rajko Popovic..."Further, Kikindske novine wrote in issue No. 54 on 24 September 1999, in another article "Raja's bill footed by the Kikinda people", which appeared on pages 6 and 7 of the paper, that Mr. Popovic was "a tragi-comic hero", while on page 9 in a report headlined "Daddy Rajko still sues" wrote that Mr. Popovic was "a man who has been offending and humiliating the residents of the municipality of Kikinda for ten years". Finally, Kikindske novine, No. 55 of 1 October 1999, on page 8 revealed that Mr. Popovic was "a well-known xenophobic living in General Drapšin Street who has systematically brainwashed the people in Kikinda for the last ten years or so, who has provoked local and wider frictions, incited to lynch-mobbing and revenge, insulted whoever came his way and shamelessly lied to his teeth to those who allocated money for public information and who looked forward to the appearance of a bloke like Ziva to give him airwaves". In each of the cases owner/manager of Kikindske novine and the Kikinda Youth Centre were fined 100,000 new dinars each.

Conclusion: Kikindske novine were not punished for "reporting on the proceedings directed against it" but because of the contentions made about Mr. Popovic. The quoted articles of Kikindske novine constitute a more serious violation of the rights of the person, namely the right to identity.

Paragraph 76 - case of Narodne novine

Narodne novine, No. 11232 of 18/19 September 1999, on page 1, in the article "Replacing cars faster than the people buying new shoes" wrote that "Tell to the people what are your post adjustment allowances and what are the salaries of your political commissaries appointed in larger companies such as DIN-Niš? We possess reliable information that they are in excess of 100,000 dinars". DIN-Niš and manager of DIN-Niš filed charges against Info-Niš, the publisher of Narodne novine, the manager and editor of the same paper. They were of the opinion that by disclosing inaccurate information, Narodne novine had violated the rights of the person of DIN-Niš as the juridical person.

The conduct of proceedings: The defence stated that Narodne novine had only reported the statement of the Executive Council of the Assembly of the City of Niš, that the article did not contain any assertions but rather questions, and finally that the juridical person could not enjoy the rights of the person. The local bailiff in Niš fined Info-Niš and publisher of Narodne novine 100,000 new dinars each, and the manager and editor-in-chief of the paper 50,000 new

dinars each. The first-instance verdict was confirmed by the Petty Crimes Chamber in Niš.

Conclusion: The Narodne novine case was odd, because a juridical person was afforded the safeguards available for violation of the rights of the person in a case heard by the bailiff. The defence made no attempt to prove the truthfulness of the statement. To claim that Narodne novine did nothing but reported the statement issued by the City of Niš Executive Council is tantamount to claiming that public media are not responsible for the selection of statements reported by it and for the manner in which they are presented. Misrepresentation of the situation in the DIN-Niš tobacco factory was in violation of its right of business reputation, and that was the main reason for fining Narodne novine.

Paragraph 76 - case of Nedeljni telegraf

The weekly Nedeljni telegraf ran on 10 November 1999, on pages 10 and 11, a story "Why is JRB, a company of state importance, going to ruin?" Chief executive of the shipping company "Jugoslovensko recno brodarstvo, JRB for short, pressed charges against the owner and editor of Nedeljni telegraf.

The conduct of proceedings: Four witnesses for the defence were heard. Holding that the disputed story violated the reputation of the JRB's executive, the magistrate fined NIP Pharos 100,000 new dinars and the owner and editor of Nedeljni telegraf 60,000 new dinars. Proceedings on appeal against the decision are under way.

Conclusion: Proceedings were instituted because Nedeljni telegraf had made a judgement on the situation in JRB ("going to ruin, poor performance") and because it blamed the JRB's executive for such a situation. Fines followed for violation of the rights of the person of the JRB's executive, namely his reputation. The defence failed to prove that the executive was to be blamed for a poor performance on the part of JRB or that JRB did not perform well.

Paragraph 76, case of an unnamed "journalist from Sandzak"

The Special Rapporteur's report mentioned no journalist's name. It could be inferred that the reference was made to a decision against Šefket Krcic, editor-in-chief of Sandzak magazine. If this is the case, the Special Rapporteur may be addressed very serious critical remarks.

By a decision of the District Court in Novi Pazar, Krcic was found guilty of a criminal offence of inciting to ethnic, racial or religious hatred or intolerance under Article 134, para. 1, of the Criminal Code of the Federal Republic of Yugoslavia. He was sentenced to a three-month imprisonment, suspended for a year. His jail sentence went into effect.

Description of the case on the basis of facts as established by the District Court in Novi Pazar: During the course of 1992 and 1993 as editor-in-chief of Sandzak magazine Krcic wrote in the column entitled "Editor-in-Chief's Harp" that "Serbian terrorists display their well-known sadism and masochism in Sandzak, particularly manifested in the commission and provocation of crimes and incidents...They have been subjected to severe mental torture by the Serbian State informed the 10-million Serbian population through the media that they would face a threat from Sandzak (Sandzak magazine, No. 3/92). "Sandzak is ethnically occupied; attack jets fly over it (very low, just above the roofs); force is demonstrated; fear and panic are very much present. Serbia endangers its security through police and the military. In a nutshell, the Muslim nation is threatened and it fights to survive." (Sandzak magazine, No. 6-7/92).

"There is a stealing of private capital on a big scale. Recently, the financial police in Novi Pazar made an unprecedented confiscation of the property of private entrepreneurs, simply because they were Muslim....In the middle of night, in the heart of Novi Pazar, reservists barge into blocks of flats and homes inhabited by Muslim families ordering them out and shouting abuse at them in order to pit Serbs against Muslims. Police replies to calls from alarmed citizens asking not to disturb them any more." (Sandzak magazine, No. 8/92). "Sandzak Muslims have been condemned by a system of apartheid to conditions unworthy of a man. That system of apartheid has been dictated by Serbian and Montenegrin authorities and applied in practice in this war by the fascists of Slobodan Milošević and Dobrica Cosic..." (Sandzak magazine, No. 14-15/93).

It should be pointed out as well that Krcic was not convicted of "slandering Serbian President Slobodan Milošević" as stated in paragraph 76 of the report but of incitement to ethnic and religious hatred, divisions and intolerance. President Milošević was mentioned once. The criminal sanction was misquoted. Three months' imprisonment was not passed on Krcic but rather a conditional sentence. The decision of the Supreme Court of Serbia is not "dated 12 December 1998". It is dated 8 December 1998. The decision of the Supreme Court of 8 December 1998 did not confirm "a 1992 decision" but another decision, dated 25 June 1998.

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Regarding an impression gained on reading para. 76, concerning an alleged discriminatory application of the Law on Public Information of the Republic of Serbia, comments down below will contain a few examples to the contrary:

Bogoljub Arsenijevic Maki v. Politika
(a case of the opposition suing a pro-government newspaper decided in favour of the opposition)

Bogoljub Arsenijevic, alias Maki, filed charges against the daily Politika. Politika of 20 August 1999 borrowed an article of the Yugoslav news agency Tanjug having the title "It is only true that Arsenijevic is a self-taught hooligan". The bailiff in Valjevo ascertained that Politika had not proven the truthfulness of the statements contained in the text, thereby violating, even though the text originally came from Tanjug, Arsenijevic's honour and reputation. Pursuant to Article 69 of the Law on Public Information, Politika was fined 50,000 new dinars and its editor-in-chief 20,000 new dinars. At a hearing on appeal of all parties, the fine to be paid by Politika was increased from 50,000 to 70,000 new dinars, while the fine to be paid by its editor-in-chief was raised from 20,000 to 25,000 new dinars.

Zlatomir Kozlovacki v. Borba
(another case of the opposition versus a pro-government daily decided in favour of the opposition)

Zlatomir Kozlovacki is a former mayor of Zrenjanin which was ruled by the majority opposition block "Zajedno" until 28 October 1998. Borba ran in its issue No. 297/298 on 24-25 October 1998, on page 13, a story, inter alia, claiming that Kozlovacki stripped off his clothes on the dance floor of a night club. Kozlovacki pressed charges for violation of the rights of the person. The charges were filed against the federal public institution Borba and its general

manager.

The first-instance court was the Municipal Court for Petty Crimes in Zrenjanin. Borba was fined 100,000 new dinars and its manager 50,000 dinars. The Appeal Chamber of Novi Sad turned down the appeal lodged by Borba and accepted an appeal lodged by Borba's manager. At a re-trial, the case against the manager was thrown out of court as the Serbian National Assembly had not waved his immunity as deputy.

It is worth noting, however, that at the request of Kozlovacki both Politika and its editor-in-chief were fined for running similar stories. The appeals filed by the latter were refused by the Novi Sad Appeals Chamber.

Kostic v. Pirot Municipal Council et al.
(a case of a ruling party member versus opposition decided in favour of the opposition)

The Pirot Municipal Council is ruled by the majority Zajedno opposition block. The Sloboda newspaper, founded by the Pirot Municipal Council, published an article "Kostic abused the seal" in its issue No. 2245, on 28 November 1998. Judging that the mayor of Pirot had violated his rights of the person, Kostic filed charges against Sloboda, the Pirot Municipal Council, the mayor of Pirot and the editor-in-chief of Sloboda.

The local bailiff acquitted all defendants: the Pirot Municipal Council and the mayor of Pirot in view of the fact that local government structures cannot be held responsible under the Law on Misdemeanours, whereas the editor of Sloboda was acquitted for lack of evidence.

Stevan Kesejic v. Somborske novine
(another case of a ruling party member versus opposition decided in favour of the opposition)

On 24 December 1999, the Somborske novine newspaper ran a report on a press conference held by the Serbian Radical Party (SRS) entitled "Politicization at the expense of citizens". It reported a statement made by Kesejic, chairman of the SRS local committee, to the effect that members of the Democratic Party and the coalition government in Sombor were supportive of the underhand initiative of private bakeries to put bread prices up and that their media gave the impression that the residents of Sombor were discriminated against.

In its next issue Somborske novine printed a retraction by the Sombor committee of the Democratic Party "Where is our farmers' grain?".

Following the publication of that article, Kesejic pressed charges for violation of Article 69 of the Law on Public Information. The Municipal Court for Petty Crimes in Sombor acquitted Somborske novine of all charges, finding that no offence was committed.

Jozef Kasa v. Democratic Party of Vojvodina Hungarians
(an opposition-versus-opposition case)

Jozef Kasa is mayor of Subotica. The Hirlap newspaper was founded and printed by the opposition Vojvodina Hungarians' Democratic Party.

On 20 November 1999, the newspaper published an article "Distancing collaborators" saying that "millions of Deutschemarks are at play in Serbia's equestrian sport..." and that the country's foremost hunters included, as claimed in the article, some of the wealthiest entrepreneurs of Severna Backa such as Hungarians Dj.

Lajos and Jozef Kasa.

Jozef Kasa filed charges against the Democratic Party of Vojvodina Hungarians as owner/manager of Hirlap, as well as against the editor of this paper.

Considering that defence did not prove that the information was true, the municipal court for petty crimes in Temerin, fined the Democratic Party of the Vojvodina Hungarians 100,000 new dinars, and editor-in-chief of "Hirlap" 50,000 dinars. After the appeal of the defendants, the decision in the first instance was suspended and new proceedings are now under way.

case of Ljiljana Blagojevic v. "Danas" papers
(case of opposition v. opposition)

Ljiljana Blagojevic is the Secretary for Culture of the City of Belgrade (member of the opposition SPO party). She brought charges against "Danas", for violating Article 69 of the Law on Public Information because in issue of 5 March 1999, page 10, in an article entitled "City authorities against culture" it is said that the above named was leading a campaign against culture, and that the campaign affected activities of all theatres in the city, and that the height of the campaign was taking away a club from "Bitef teatar" and giving it for permanent use to "Kosava", i.e. to the daughter of President Milosevic.

The defense did not seek to prove that the information was true providing an excuse that it transmitted the statement of the "Local Belgrade shadow Government". The magistrate of the city of Belgrade fined "Danas" 250,000 dinars. The Misdemeanors Council in Belgrade confirmed this decision.

Ljiljana Blagojevic, together with writer Sinisa Kovacevic, brought charges against "Glas javnosti" for a similar text. The magistrate of the city of Belgrade fined "Glas javnosti" 100,000 dinars. The decision was confirmed by the Misdemeanors Council in Belgrade.

case of Aleksandar Joksimovic v. "Glas javnosti"
(case of opposition v. opposition)

Aleksandar Joksimovic is President of the Regional Board of the Alliance for Changes of Milan Panic. On 29 October 1998, "Glas javnosti" carried an article on page 16, entitled "Alliance for removal", saying that in most cases Joksimovic presented views to the detriment of local self-government in the Municipal Assembly of Zrenjanin. Joksimovic brought charges in line with Article 69 of the Law on Public Information. The municipal court of petty crimes in Zrenjanin did not accept the charges. The decision in the first instance was appealed. The Misdemeanors Council in Novi Sad dismissed the appeal.

D. Arrest, detention and missing persons

The Government of the Federal Republic of Yugoslavia is concerned over a great number of unresolved cases of missing persons. Exactly for that reason it submitted information on arbitrary detention, i.e. on the missing persons, to two working groups of the Human Rights Commission on arbitrary detention, i.e. on missing persons. The relevant lists will be issued as documents at the 56th session of the Human Rights Commission in the framework of relevant

agenda items.

E: Rule of law - the right to fair trial

In view of the fact that Special Rapporteur is still interested in Albanian detainees, the Government of the FR of Yugoslavia would like to inform the Member States of Human Rights Commission, about the situation as at 13 March 2000:

In the wake of consequences of the NATO aggression, and in line with a plan of dislocation of penal-correctional institutions (KPZ), a total of 2,050 detainees were removed from Kosovo and Metohija. Out of that number, 1,874 are members of Albanian national minority and 176 belong to others.

Out of 2,050 dislocated persons, 1,681 have been charged with terrorist acts and conspiracy to carry out hostile activities, as well as the criminal act of illegal possession of arms and ammunition. Out of a total number of dislocated persons, 370 were convicted before the onset of conflicts in Kosovo and Metohija and the aggression of NATO forces, or proceedings are under way against them for common criminal acts. After dislocation, proceedings are under way against persons suspected of certain criminal acts.

In the period since dislocation until 13 March 2000, a total of 823 detained persons were released. They were released after the expiry of their prison term, detention, decision of the court on suspension of detention and on the basis of parole.

The ICRC was informed about the persons released from Penal-Correctional Institutions, which in most cases took over the persons and handed them over to their families. A number of released persons were given directly to KFOR, while a lesser number was taken over by their families, other relatives or defense attorneys. A number of persons has chosen to go back on their own to their families who moved out from the territory of Kosovo and Metohija.

On 13 March 2000, out of a total number of detained persons dislocated from Kosovo and Metohija, in the Penal-Correctional Institutions and District prisons in the Republic of Serbia, there are 1,227 detained persons. Out of that number, 571 have been convicted and 656 have a status of prisoners and relevant court proceedings are initiated against them. Out of 565 detainees, 436 were convicted and 220 are awaiting arraignment or suspension of detention.

The position and treatment of detained persons dislocated from Kosovo and Metohija is not different from other detained persons, except that it has been assessed that in the interest of their security as well as safety of the institution they are in, it was necessary to group them and place them in separate facilities.

Court and prison authorities enabled these persons, as well as other convicts and detainees, to exercise those rights in accordance with the law (visits of family members, defense attorneys, relatives, etc.). They also allow visits by the ICRC, UN representatives, humanitarian, non-Governmental and other organizations.

In line with the decisions of judicial authorities, persons are released from Penal-Correctional institutions on a daily basis, about which ICRC and defense councils of imprisoned and convicted persons are regularly informed.

Para 85 contains unsubstantiated allegations on the crimes that have allegedly taken place in the so-called Sandzak, i.e. the District of Raska in the period of 1992-1994 and makes mention of the abductions of mostly Muslim civilians in Strpce, Bukovica, Sjeverin and other places which have not been investigated properly. These allegations have been already addressed in the comments to the Report

on visits of the Special Rapporteur to the FRY in April, September and October 1998. It was emphasized in the reply that both abductions took place in the territory of Bosnia and Herzegovina, where the Ministry of the Interior of the Republic of Serbia or the Federal Ministry of the Interior of the FR of Yugoslavia no territorial jurisdiction.

Concerning the killing of three persons of Muslim nationality in Kukurovici in 1993, the District Public Prosecutor's Office in Uzice, filed criminal charges against unknown perpetrators. Available information indicate that the killing was perpetrated by an armed group of persons from Republika Srpska. The competent State authorities of Republika Srpska were requested assistance with a view to identifying and tracing unknown perpetrators. In the case of killing of a Muslim in Sjeverin, in August 1992, the Secretariat in Uzice identified the perpetrator as Dragan Savic from Visegrad, a member of the Army of Republika Srpska, against whom criminal charges were brought on account of justified suspicion that he had committed the criminal act of murder from Article 47, para 2 in connection with para 1 of the Criminal Code of the Republic of Serbia. An APB was issued for his arrest.

F: Rule of Law: Freedom of Association

(Para 86) - case of Bogoljub Arsenijevic aka "Maki"

Criminal proceedings: Bogoljub Arsenijevic was sentenced by the decision of the District Court in Valjevo to three years' imprisonment. He was found guilty of the criminal act of obstructing a law enforcement officer from performing his job of ensuring security or maintenance of public peace and order, from Article 23, para 3 in connection with para 1 of the Law on public order and peace. The meeting was not duly reported because Arsenijevic "does not recognize this regime". The meeting was peaceful. However, after completing his statement on the square, Arsenijevic called upon the citizens to enter through the official entrance of the municipal building of Valjevo. Arsenijevic used force. The windows on the municipal building were broken. Arsenijevic inflicted light injuries on a police officer. The group entered a small assembly hall, broke windows, turned over the chairs, flower pots and flower stands and broke glass doors. Arsenijevic inflicted a serious injury on one police officer and a minor one on another.

Arsenijevic got away and an APB was issued for his arrest. He was arrested in Belgrade on 17 August 1999. His jaw was broken during the arrest. Since his arrest on 17 August 1999, he was in detention until 7 March 2000 when he escaped. Arsenijevic lodged an appeal to the Supreme Court of Serbia.

Conclusion: Arsenijevic was tried for the violence he committed not for expressing his views.

(Para 86) - The case of Ivan Novkovic

Criminal proceedings: Public District Prosecutor in Leskovac filed charges against Ivan Novkovic. He was suspected of committing the criminal act of misusing official post from Article 242, para 4 in connection with para 1 of the Criminal Code of the Republic of Serbia. The main hearing before the Municipal Court in Leskovac has started and has not ended yet. Novkovic is not detained, nor was detained during the criminal proceedings.

Charges: Novkovic was addressing a crowd at a protest rally in Leskovac and taped his statement. As editor and producer on TV Leskovac, on 1 July 1999, during half-time of a basket-ball game, he went to a cutting room, locked the door and inserted a video tape

with his message from the protest rally in Leskovac.

Novkovic called a protest rally in Leskovac on 5 July 1999. He did not report it to the authorities. At the rally, he called upon the citizens to come the next day as well. On 6 July 1999, Novkovic was committed to 30 days in prison for the offence of failing to report a public rally. His appeal was refused by the decision of the Chamber for petty crimes in Leskovac.

Conclusion: In misdemeanour proceedings, Novkovic was committed to 30 days in prison for failing to report the rallies on 5 and 6 July 1999, although he was a co-convenor of them. Novkovic was not sentenced for political views presented at the protest rallies.

Criminal proceedings against Novkovic have not been completed, and they are instigated on grounds of suspicion of misusing his post at TV Leskovac and overstepping authority as a TV producer.

(Para 86) - case of activists of movement "Resistance"

The allegations from above para in the report to the effect that in late November 1999, activists of the student movement "Resistance" in Smederevo were arrested and ill-treated in police custody. The Ministry checked into the allegations and established the following facts:

- On 24 November 1999, activists of the "Resistance" student movement intended to hold a protest at Republic Square in Smederevo, which they had not notified to the authorities. Police arrested eight activists of this movement for possession of sprays and other means used in spraying on the slogans containing messages of the movement as well as for damage caused thereby to some buildings in the town. Smederevo Police brought misdemeanour proceedings against six persons in accordance with Article 15, para. 1, subpara. 2, of the Law on public rallies. Criminal prosecutions were brought against four activists of this movement for the criminal offence of damage to another's property under article 176 of the Criminal code of the Federal Republic of Yugoslavia in conjunction with Article 98 of the Criminal Code of the Republic of Serbia. All persons brought in for questioning were released after informative talks with them.

I. Concluding observations

In paragraph 92 of the Special Rapporteur's report, a road accident was maliciously interpreted as a murder of four members of the entourage of an opposition leader. The following are facts of the case:

- On 3 October 1999, around 12:00 (noon), an accident occurred on the Beograd-cacak highway, near the village of Petka, in the municipality of Lazarevac. Veselin Boškovic (born 1950), Vucko Rakocevic (born 1967), Dragan Vušurovic (born 1964) and Zvonko Osmajlic (born 1946) were killed, while Vuk Draškovic (born 1946) sustained light injuries. The scene of the accident was inspected and a report made by the duty investigating judge of the First Municipal Court in Belgrade, in the presence of the Deputy Prosecutor of the First Municipal Public Prosecutor's Office in Belgrade. The accident was caused by an unknown driver of a Mercedes-Benz truck that made a head-on collision with two passenger cars in which the above-mentioned persons travelled. Criminal charges have been brought against the unknown truck driver, who is still in flight, for a serious criminal offence against safety of public transport under Article 201 of the Criminal Code of the Republic of Serbia. Investigation into the incident is now underway. The competent judicial authorities have informed the public about the results of

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the investigation conducted and the facts established thus far.

- Also untrue are allegations contained in paragraph 93 of the Report about an alleged kidnapping of Teki Bokshi, attorney from Djakovica, by three uniformed officers on a section of the highway between Sremska Mitrovica and Belgrade as he travelled with two other attorneys back from a visit to some clients detained in Sremska Mitrovica. In this respect, the facts are as follows:

- On 5 December 1999, Mustafa Radonjici and Ibiš Hoti, attorneys in Djakovica came to a police station in Belgrade to report the abduction of attorney Teki Bokshi by three officers on 3 December 1999. At the moment of the abduction they travelled with him in the same car. The police conducted informative talks with these persons as well as with Dragutin Rakovic from Belgrade, who they had indicated as possibly being behind the kidnapping of Teki Bokshi. They also had an informative talk with Teki Bokshi on 16 December 1999, after he had reportedly been released by his abductors. He said that he had been kidnapped by three unknown persons who had posed as police officers. He suspected that a person called Roko, living in Djakovica, masterminded the abduction. His abductors took him to a flat in Novi Beograd, where they confiscated 5,480 Deutshemarks and about 4,000 dinars from him. They handcuffed and kept him under lock and key till 16 December 1999, when he was cut loose. He said these persons had beaten, tortured and threatened to kill him if they did not receive a ransom of 500,000 Deutshemarks for his "head". His wife ostensibly gave 100,000 Deutshemarks to attorney Tomislav Stojkovic, who reportedly sent it onto the abductors as ransom money. Subsequently, all these persons refused any contact and cooperation with the police in providing the necessary information for clarifying all circumstances of the case.

- The claims, contained in paragraph 95 of the Report, that Serbian police at checkpoints manned by them mistreat citizens and confiscate the items and money found on them upon inspection by police, are completely arbitrary and maliciously intended. Police checkpoints have been set up to detect and trace the perpetrators and objects of criminal offences, especially contraband arms and ammunition, explosives, narcotic drugs, stolen vehicles, illicit trafficking in various goods, as well as to conduct checks on motorists. Officers manning the security checkpoints exercise the powers given to them by the law in an appropriate manner.

J. Recommendations

Comments offered by the Government of the FR of Yugoslavia also include responses to some statements made under this chapter.

Besides, regarding the recommendation contained in paragraph 102, it should be noted that, in accordance with the international conventions ratified by the FRY, there exist in the legislation and administrative practices of the FR of Yugoslavia no distinction, exceptions, exclusion or a more favourable treatment in employment, based on ethnic origin, religion, political opinion or any other affiliation.

March 2000